

SERVED: December 30, 1992

NTSB Order No. EA-3754

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 16th day of December, 1992

_____)	
THOMAS C. RICHARDS,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10592
v.)	
)	
DONALD L. OBRECHT,)	
)	
Respondent.)	
_____)	

OPINION AND ORDER

The respondent appeals from the oral initial decision of Administrative Law Judge Jerrell R. Davis, issued in this proceeding on October 17, 1990 at the conclusion of an evidentiary hearing.¹ The law judge affirmed an order of the Administrator issued on September 25, 1989 suspending

¹A copy of the oral initial decision, an excerpt from the transcript, is attached.

respondent's private pilot certificate for 30 days² for violations of Federal Aviation Regulations 91.90(a)(1) and 91.9, 14 C.F.R. Part 91, for operation within a terminal control area (TCA) without air traffic control (ATC) authorization. Upon a motion by the Administrator, the hearing was limited to the issue of sanction.

The respondent argued at the hearing and argues on appeal³ that remedial training would be more appropriate than a suspension of his certificate.⁴ However, as the law judge properly recognized, the Board's role in a case such as this one is to determine whether the sanction sought by the Administrator was consistent with precedent, not whether some other response to the admitted violation should have been pursued. See *Administrator v. Hemphill*, NTSB Order EA-3703 (November 6, 1992).

Upon consideration of the briefs of the parties and the entire record, the Board has determined that safety in air commerce or air transportation and the public interest require that the Administrator's order be affirmed in its entirety. We

²The original order was for a 60-day suspension, but it was amended to 30 days.

³Respondent's notice of appeal also served as his appeal brief.

⁴It is possible that such an alternative penalty might have been imposed had the violation occurred on or after March 5, 1990 under the Compliance and Enforcement Program, Order 2150.3A, Appendix 1, change 4, COMPLIANCE/ENFORCEMENT BULLETIN NO. 90-8 (5/18/90). However, this policy under which remedial training may be substituted for punitive legal enforcement action only applies to cases in which an enforcement investigative report (EIR) was opened on or after March 5, 1990. Respondent's violation occurred on April 5, 1989.

adopt the law judge's findings as our own.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied;
2. The Administrator's order and the initial decision are affirmed; and
3. The 30-day suspension of the respondent's private pilot certificate shall begin 30 days from the date of service of this order.⁵

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

⁵For the purposes of this order, respondent must physically surrender his certificate to an appropriate representative of the FAA pursuant to FAR § 61.19(f).